

REMARKS:**Status**

Claims 1-8, 9-30 are pending. Claims 1, 12, 24, and 29 are independent claims.

35 U.S.C. §112

Claim 6, as amended, addresses the rejection under §112. Applicant accordingly requests withdrawal of the rejection of this claim under 35 U.S.C. §112.

35 U.S.C. §101

Amended claims 1-8 and 10-23 address the rejection under 35 U.S.C. §101. Applicant respectfully submits that claims 1-8 and 10-23 recite statutory subject matter.

35 USC §102

Claims 1-6, 10, and 11 are rejected under 35 U.S.C. §102 as being anticipated by GAO (PAYMENTS, CLEARANCE, AND SETTLEMENT: A Guide to the Systems, Risks, and Issues).

The rejection of claims 1-6, 10, and 11 is based on the Office Action's definition of "spot market" found on pages 5-6 (see paragraphs 14-15). Applicant respectfully disagrees with the definition applied by the Office Action. A spot market, as the term is used in the instant application, is different from a futures market. This is expressly stated in the specification: "Clearing houses have been used in the context of the futures market. In contrast to such application, the clearing house in the present application is applied to and modified for the spot market context." See paragraph [0035] of the published application. One of ordinary skill in the art would clearly understand from the specification that the claim term "spot market" is not a futures market.

GAO discusses a clearing house used in the *futures* market, not in a spot market context. Spot markets operate considerably differently from other markets, including futures markets, that have used clearing houses. Claim 1, as amended, reflects such differences, thus clarifying the meaning of the term "spot market".

For example, spot markets relate to commodities, such as electricity or natural gas, that are bought and sold in real-time for cash and delivered immediately (Specification, paragraph [0002]), which by the nature of such trades require initial settlements and revised settlements since the amount of commodities like electricity or natural gas that are bought or sold do not always match that which is delivered or consumed. Spot market trading for commodities like electricity, natural gas, or the like poses unique challenges to the use of clearing houses that traditional exchanges do not face. Futures markets dealing in, for example, the commodities mentioned in GAO (e.g., cattle, metals, wheat) do not face the challenge of the amount of commodity bought or sold commonly being different from the amount actually delivered and/or consumed. The nature of the commodity itself traded in spot markets lends itself to these unique challenges and distinctions. This difference is even more pronounced when the challenge of aggregating and reconciling the types of trades that are characteristic of spot markets across multiple spot markets is introduced.

Amended claim 1 recites, among other things, that data associated with the revised settlement amounts is received after delivery of the commodity traded, as well as that the revised settlement amounts are based on the difference between the amounts of commodity traded and actually delivered in response to the first and second trade offers. The spot market process of receiving an initial settlement amount and a revised settlement based on a difference between the amount of the commodity traded and the amount of the commodity delivered is inapplicable to the futures market of GAO, or to other markets that have used clearing houses in the past. Applicant respectfully submits that GAO does not teach, or render obvious, all the features of claim 1. Applicant accordingly requests withdrawal of the rejection of claims 1-6, 10, and 11.

35 U.S.C. §103

Claims 24-26 and 28 are rejected under 35 U.S.C. §103(a) as being unpatentable over GAO. Claims 12-14, 16-23, 29-30, and 32 are rejected under 35 U.S.C. §103(a) as being unpatentable over GAO in view of Frase (“Exchanges and Alternative Trading Systems”). Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over GAO in view of CAL PX (“Power Exchange Settlement and Billing Protocol (PSABP)”). Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over GAO in view of Frase, further in view of

Shimko et al. (U.S. Patent No. 7,139,730 B1). Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over GAO in view of Shimko.

Similar to claim 1, independent claims 12, 24, and 29 are also amended to clarify the definition of spot market as the term is used in the claims and in the disclosure. For the reasons discussed above with respect to claim 1, GAO does not teach, or render obvious, all the features of claim 12, 24, or 29. None of the cited references cure the deficiency of GAO. In particular, none of the cited references discuss a *spot market* clearing house, as defined in the specification, used to clear trades across multiple *spot markets*. Applicant accordingly requests withdrawal of the rejection of the claims under §103(a).

SUMMARY

If any questions arise or issues remain, the Examiner is invited to contact the undersigned at the number listed below in order to expedite disposition of this application.

Respectfully submitted,

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